



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 24 जुलाई, 1976/2 श्रावण, 1898

GOVERNMENT OF HIMACHAL PRADESH

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Simla-171002, the 23rd July, 1976

No. EXN-F(18) 1/76-Part-II.—In exercise of the powers conferred by section 14 of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976 (Ordinance No. 5 of 1976), the Governor of Himachal Pradesh is pleased to make the following rules for carrying out the purposes of the said Ordinance:—

DRAFT RULES

Short title
and com-
mencement.

1. (1) These rules may be called the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Rules, 1976.

(2) These rules shall come into force at once.

Definition.

2. In these rules, unless there is anything repugnant in the subject or context,—

(a) “appropriate Government Treasury” means a treasury or sub-treasury of the Government and includes a branch of the State Bank of India or a branch of the State Bank of Patiala situated in the District in which the barrier is located.

Explanation.—The branch of the State Bank of Patiala shall be deemed to be the appropriate Government treasury only in relation to barrier where there is no treasury or sub-treasury of Government or a branch of the State Bank of India;

(b) “Assistant Excise and Taxation Officer” means the Assistant Excise and Taxation Officer incharge of the District to which posted or incharge of the barrier to which posted and appointed as such by Government under section 7 of the Ordinance;

(c) “Deputy Excise and Taxation Commissioner” means the person appointed as such by the State Government under section 7 of the Ordinance;

(d) “Excise and Taxation Officer” means the Excise and Taxation Officer-in-charge of the District to which posted and appointed as such by the Government under section 7 of the Ordinance;

(e) “form” means a form appended to these rules;

(f) “Ordinance” means the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976;

(g) “section” means a section of the Ordinance; and

(h) “All other words and expressions not defined in the Ordinance itself, shall have the same meanings as are assigned to them under the Ordinance.

Superinten-
dence and
control of
the admini-
stration
under sec-
tion 7.

3. (1) Subject to the control of Government, and unless the Government by notification otherwise directs, the Excise and Taxation Commissioner shall supervise the administration and the collection of tax leviable under the Ordinance.

(2) Subject to sub-rule (1) the Deputy Excise and Taxation Commissioners, Excise and Taxation Officers and Assistant Excise and Taxation Officers shall control all other officers appointed under the Ordinance within their respective jurisdictions.

(3) The Inspectors and other persons employed for the collection of the tax at the barriers are charged with the duty of carrying out the provisions of the Ordinance subject to the control and directions of the Excise and Taxation Officers or the Assistant Excise and Taxation Officer-in-charge of the district.

4. (1) Receipts of all payments made under the Ordinance shall be in Form "T-1". The receipt shall be filled up in triplicate, the third copy of which shall be retained by the Inspector-in-charge of the barrier and second copy shall be sent by him to the Excise and Taxation Officer or Asstt. Excise and Taxation Officer of the respective district on every Monday following the week and the original copy will be delivered to the payee, duly signed, in token of the proof of having made the payment.

Realisation of tax under section 4 and 10.

(2) The driver or person-in-charge of goods shall invariably show to the barrier incharge, the Asstt. Excise and Taxation Officer, Excise and Taxation Officer or Deputy Excise and Taxation Commissioner or any other officer authorised by the Government on demand the receipt issued in token of having paid the tax.

5. (1) The Inspector-in-charge of the barrier detaining the goods under section 10 shall issue to the owner of the goods or his representative or the driver or the person incharge of the goods a receipt in Form "T-2" specifying the description and quantity of the goods so detained and obtain an acknowledgement from such person or if such person refuses to give an acknowledgement record the fact of refusal in the presence of two witnesses.

Procedure for detention of goods under section 10.

(2) The security bond and personal surety bond under sub-section (1) of section 10 of the Ordinance shall be obtained in Forms "T-3" and "T-4" respectively.

6. The goods detained under sub-rule (1) of rule 5 and not released within 24 hours shall be sold by public auction in the following manner:—

Procedure for disposal of detained goods under section 10(2).

(1) The Inspector-in-charge shall cause to be published on the notice board of his office a list of goods detained and intended for sale with a notice under his signature, specifying the place where and the day and the hour of which the detained goods will be sold and shall display the copies of such lists and notice in more than one public place near the barrier or other place where the goods were detained and also where they are intended to be sold/auctioned. Copies of the list and notice shall also be displayed in the offices of the Excise and Taxation Officer/Assistant Excise and Taxation Officer of the district having jurisdiction. Ordinarily a 3 days notice in case of perishable goods and 7 days notice in other cases shall be given before the auction.

(2) The auction shall be conducted by the Inspector-in-charge of the barrier. Intending bidders shall deposit earnest money, a sum amounting to 10% of the estimated value of the goods which should be determined by the Inspector-in-charge of the barrier and indicated in the auction notice.

(3) On the appointed day, time and place, the goods shall be put to auction in one or more lots as the officer conducting the auction may consider fit and shall be knocked down in favour of the highest bidder. The officer conducting the auction will have the right to reject the highest bid if it is below the estimated value determined without any reasons.

- (4) Where the highest bidder fails to pay the whole amount after deducting the earnest money at the fall of the hammer, the goods shall be resold by auction at once and earnest money deposited by the defaulting successful bidder shall be forfeited to Government. The earnest money deposited by the un-successful bidder shall be refunded to them immediately after the auction is over.
- (5) The sale proceeds of such goods after defraying the expenses and after deducting the tax shall be paid to the owner of the goods or his representative or driver or the person incharge of the goods vehicle, as the case may be, by the Inspector incharge of the barrier. The amount of the tax deducted shall be deposited into the appropriate Government treasury under Head 045—Other Taxes and Duties on Commodities and Services—Receipts from Cesses under Other Acts—(i) Receipts from Tax on Certain Goods Carried by Road.
- (6) In case the person to whom the balance of sale proceeds is to be paid under sub-rule (5) refuses to accept the payments or fails to collect the said payment from the Inspector incharge of the barrier on the day the goods detained are disposed of, the balance of the sale proceeds shall be deposited in the Government treasury under "Head 045—Other Taxes and Duties on Commodities and Services—Receipts from Cesses under Other Acts—(i) Receipts from Tax on Certain Goods Carried by Road", under intimation to the said person. The amount so deposited shall be refunded by the Deputy Excise and Taxation Commissioner on the application made by such person in this behalf.

Revision
under sec-
tion 12.

7. (1) Any person desiring to prefer a revision application under section 12 of the Ordinance shall draw up a memorandum setting out the grounds of revision and forward it in duplicate to the Commissioner.

(2) The Commissioner shall cause a copy of the Memo. of revision sent to the officer or authority, whose orders/proceedings are sought to be revised and direct him to send his comments along with the relevant records to him within such time, as is, specified in the requisition.

(3) On the receipt of the records and comments under sub-rule (2), if the Commissioner is of the opinion that there is no force in the revision petition he may summarily reject the petition or otherwise may proceed to revise the order.

(4) The Commissioner may at any stage call for any evidence if he considers necessary for the disposal of the revision application made to him.

Maintena-
nce of ac-
counts and
submission
of returns.

8. (1) The Inspector-in-charge shall maintain at the barrier a tax collection register in Form "T-5" in which shall be recorded the particulars of every payment of tax or any other amount deposited under the Ordinance.

(2) The tax collected at the barrier shall be deposited by the Inspector-in-charge of the barrier in the appropriate Government treasury twice a week or earlier when the amount of tax collected exceeds one thousand rupees.

(3) Every Inspector-in-charge shall send a statement to the Excise and Taxation Officer or Assistant Excise and Taxation Officer, incharge of the district in which the barrier is situated, on the first working day of each month in Form "T-6" of the amount credited in the treasury under the Ordinance and these rules during the preceding month. The Excise and Taxation Officer or the Asstt. Excise and Taxation Officer will compile the statements and send the consolidated return to the Deputy Excise and Taxation Commissioner and the Excise and Taxation Commissioner every month immediately after the close of the month.

(4) Every Treasury Officer shall send to the Excise and Taxation Officer or the Assistant Excise and Taxation Officer, incharge of the district within the first week of each month, a statement of the amounts credited in the treasury under the Ordinance and these rules during the preceding month.

FORM T-1 PAYMENT RECEIPT

[See rule 4(1) of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Rules, 1976].

Name of the Barrier..... District.....

No..... Book No.....

1. Registration of the vehicle, cart or animal in or, on which the goods are carried or the person in charge of the goods at the time of crossing the barrier.....

2. (a) Full name and address of the consigner.....

(b) Full name and address of the consignee.....

(c) Full name and address of the bidder.....

3. (i) Place of despatch.....

(ii) Destination.....

4. Description of the goods consigned.....

5. Weight of the goods or No. of cases consigned.....

6. (i) Tax charged Rs.....

(ii) Penalty/Fine/Auction Sale Money/Earnest Money.....

.....

Total .. Rs.....

.....
Signature of the person-in-charge of the goods.

.....
Signature of the officer-in-charge of the barrier.

FORM T-2

RECEIPT TO BE ISSUED BY THE OFFICER-IN-CHARGE
IN CASE OF THE DETAINED GOODS

[See rule 5(1) of the H.P. Taxation (On Certain Goods Carried by Road) Rules, 1976].

Name of the Barrier..... District.....

No..... Book No.....

1. Description of the vehicle, cart or animal in or, on which the goods are being carried.

2. Name and address of the owner of the goods or the representative, or driver or person incharge of the goods.

3. Description of the goods detained

Signature of the owner of the goods as mentioned at serial No. 2.

Signature of the officer-in-charge of the barrier.

Dated.....

Dated.....

FORM T-3

SECURITY BOND TO BE FURNISHED BY THE OWNER OF THE GOODS/DRIVER OR OTHER PERSON INCHARGE OF THE GOODS, VEHICLE OR CART OR ANIMAL/VESSEL

[See rule 5(2) of H.P. Taxation (On Certain Goods Carried by Road) Rules, 1976].

Before the Officer-in-charge of the check-post or barrier or the officer empowered under sections 7 and 10 of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976.

No.....of 19 .

PETITIONER

Versus

The State of Himachal Pradesh

.. Respondent.

SECURITY BOND EXECUTED IN FAVOUR OF THE GOVERNOR OF HIMACHAL PRADESH AND HIS SUCCESSORS-IN-OFFICE ASSIGNS.

Whereas the officer-in-charge of the check-post/barrier (name of the check-post or barrier) of the officer empowered under section 10 of the H.P. Taxation (On Certain Goods Carried by Road) Ordinance, 1976 has directed the owner of goods/driver or other persons incharge of the goods vehicle or vessel in which goods are carried to furnish adequate security and in pursuance of such directions, I/we hereby personally undertake and bind myself/ourselves my heirs/our heirs and legal representatives to pay to the Government of Himachal Pradesh the sum of Rs..... (Rupees.....) and mortgage/charge the properties specified in the schedule hereunto annexed for the payment of the sum of Rs..... (Rupees.....) to the Governor of Himachal Pradesh and covenant that if the penalty or other amount due under the said Act is paid this bond shall be void and of no effect otherwise it shall remain in full force and effect.

In witness whereof I/we have hereunto affixed our hands and seal this.....day of.....19.....at.....

Witnesses:

1.
Signature

.....
Full address.

2.
Signature

.....
Full address.

Signature.

Note.—The Security Bond should be affixed with adhesive non-judicial stamps of the value of.....when the amount secured does not exceed Rs. 1000/- and with adhesive non-judicial stamps.....of the value of.....when the amount secured exceeds Rs. 1,000/-.

FORM T-4

PERSONAL/SURETY BOND

Personal bond to be executed by the owner of the goods or his representative, driver or other person in charge of the goods vehicle or vessel on behalf of the owner of the goods

[See rule 5(2) of the H.P. Taxation (On Certain Goods Carried by Road) Rules, 1976].

Before the Officer incharge of the check-post or barrier or an Officer empowered under section 10 of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976.

No.....19.....

..Petitioner.

Versus

The State of Himachal Pradesh

..Respondent.

Known all men by those presents that I/we.....
(Full Name)..... (Full address)..... with Registration certificate No. if any, am/are held and firmly, bond upto the Governor of Himachal Pradesh (hereinafter referred to as the 'Government' which expression shall, unless excluded by or repugnant to the context, includes his successor-in-office and assigns in the sum of Rs.....
(amount in figures and followed by amount in words) (hereinafter referred to as 'The said sum') to be paid to the Government as demanded, for which payment will and truly to be made I/we bind myself/ourselves/my/our heirs, executors, administrators and local representatives by these presents.

Whereas the above bounden has been required by the Officer Incharge Barrier.....Excise and Taxation Officer/Assistant Excise and Taxation Officer.....in writing to furnish security for the said sum for the purpose of securing the proper payment of the tax/penalty payable by him/them under the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976 (hereinafter referred to as the said Ordinance) an and indemnifying the Government against all loss, costs or expenses which the Government may in any way suffer, sustain or pay by reason of commission, default or failure of insolvency of the above bounden or any person or persons acting under or for him/them to pay such tax/penalty in the manner and by the time provided by or prescribed under the said Ordinance.

Now the condition of the above written bond is such that if the above bounden, him/them heirs, executors, administrators and legal representatives of any person acting under or for him/them pays the full amount of tax/penalty payable by him under the said Ordinance in the manner and by the time provided by or prescribed under said Ordinance on demand by any authority appointed by Government under section 7 of the said Ordinance, such demand to be in writing and to be served upon the above bounden person his/their heirs, executors. Administrators and legal representatives of any person acting under or for him/them in the manner provided by or prescribed under the said Ordinance and shall also at the all times indemnifying and save harmless the Government from all and every loss/cost or expenses which has been or shall or may at any time, or times hereafter during the period in which the above bounden is held liable to pay the tax/penalty under the said Ordinance be caused by persons of any Ordinance, ommission, default failure or insolvency of the above bounden or of any person or persons acting under or for him/them, then this obligation shall be void and of no effect, otherwise the same shall be

and remain in full force and it is hereby further agreed that in the event of the death/partition/disruption/dissolution/winding up or the final cessation of the liability, under the Ordinance or the rules prescribed thereunder, of the above bounden this bond shall remain with the Officer In-charge Barrier the Excise and Taxation Officer/Assistant Excise and Taxation Officer for one year from the occurring of any of the events aforesaid for recovering any tax/penalty that may be payable by the above bounden or any loss cost or expenses that may have been sustained included or paid by the Government owing to the act omission, default, failure or insolvency of the above bounden or any person or persons acting under or for him/them of the above bounden's heirs, executors, administrators and legal representatives and which may not have been discovered until after the above bounden's death/partition/disruption/dis-solution/winding up or final cessation of his/their liability under the said Ordinance or the rules prescribed thereunder:

Provided always that without prejudice to any other right or remedy for recovering the tax/penalty, loss or damage as aforesaid it shall be open to the Government to recover the amount payable under this bond as arrears of land revenue or fine imposed by any authority under the said Ordinance.

In witness whereof the said.....(Full name) has hereunto set his hand this.....day of..... signed and delivered.....by the above named in the presence of.....signature.....Status.

Witness:—

1.
Signature with address.

2.
Signature with address.

SURETY BOND

We (I).....

(Name and full address of the sureties)

hereby declare ourselves sureties for the above bounden and guarantee that he/they shall do and perform all that he/they has/have above undertaken to do and perform, and in case of his/their omission, default or failure therein, we hereby bind ourselves jointly and severally to forfeit to the Government of the Himachal Pradesh (hereinafter referred to as the 'Government') which expression shall unless excluded by or repugnant to the context includes his successor-in-office and assigns the sum of rupees.....
.....(amount in figures followed by amount in words) hereinafter referred to as the said sum in which the above bounden has bound himself or such other lesser sum as shall be deemed to be sufficient by the Officer-in-charge Barrier, the Excise and Taxation Officer/Assistant Excise and Taxation Officer in writing to recover any amount of tax/penalty payable by the above bounden and remaining unpaid and also to recover any loss, damages, cost or expenses, which the Government sustain, incur or pay by reason of which such omission default or failure.

And we agree that the Government may without prejudice to any other rights or remedies of the Government recover the said sum from us, jointly and severally as an arrears of land revenue.

And we also agree that neither of us shall be at liberty to terminate this suretyship except upon giving to the Officer Incharge Barrier the Excise and Taxation Officer/Assistant Excise and Taxation Officer six calendar months notice in writing of his intention so to demand out joint and several liability under the bond shall continue in respect of all acts, omission, defaults, failure and insolvencies on the part of the above bounden until the expiration of the said period of six months.

Signature of sureties in presence of witness.

(1) (Name and complete address of the witness).

(2) (Signature)

Present Address:

Signature

Permanent Address

DAILY COLLECTION REGISTER

[(See rule 9(1) of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Rules, 1976]

Name of the barrier District

Date	Name and address of the person-in-charge of the goods	Number and date of the payment receipt issued (and the period to which the payment pertains)	Tax
1	2	3	4

Penalty	Total	Amount deposited in Treasury and Tr. Voucher No. & Date	Remarks
5	6	7	8

R. C. GUPTA,
Secretary.